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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,030	03/06/2002	Peyton W. Hall	TRIA-005	7597
36275 7590 07/14/2008 O'KEEFE, EGAN, PETERMAN & ENDERS LLP 1101 CAPITAL OF TEXAS HIGHWAY SOUTH #C200 AUSTIN, TX 78746				
EXAMINER				
PATEL, NIHIR B				
ART UNIT		PAPER NUMBER		
3772				
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07/14/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/092,030

Applicant(s)

HALL ET AL.

Examiner

NIHIR PATEL

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05.29.2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 16-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on May 29th, 2008 with respect to claims 1-28 have been fully considered and are persuasive. The previous rejection(s) of the office action dated January 24th, 2008 has been withdrawn.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-5, 7, 16-20 and 22-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Field (US 4,636,412) in view of Ohodaira et al. (US 4,482,585).
5. As to claims 1, 23 and 26-28, Field substantially discloses a bladder configured to hold a fluid (see figure 1; col. 3 lines 10-15), wherein the bladder comprises an outer layer 12 (see figure 1; col. 3 lines 50-55) and an inner layer 11 (see figure 1; col. 3 lines 50-55); a spout 10

connected to the bladder and in communication with the inside of the bladder (see figure 1 col. 3 lines 60-65), wherein the spout comprises an output port and a fill for filling the bladder with fluid (see figure 1; col. 3 lines 10-15); a cap adapted to engage and close the fill port (see col. 3 lines 65-67); a tube having a first end connected to the output port of the spout and having a second end connected top a fluid delivery fitting (see col. 3 lines 65-67) but does not disclose an outer layer made of fluorinated rubber and an inner layer made of a material other than a rubber. Ohodaira teaches an apparatus that does provide an outer layer 3 made of fluorinated rubber (see col. 4 lines 15-25) and an inner layer 1 made of a material other than a rubber (see col. 4 lines 10-20). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Field's invention by providing an outer layer made of fluorinated rubber and an inner layer made of a material other than a rubber as taught by Ohodaira so that the fluid contained in the bladder is not contaminated.

6. As to claim 2, Field substantially discloses an apparatus wherein the bladder is flexible (see col. 3 lines 40-45).
7. As to claims 3 and 24, Field substantially discloses an apparatus wherein the inner layer is made of thermoplastic polyurethane (see col. 3 lines 50-55).
8. As to claim 4, Field substantially discloses an apparatus wherein the cap is adapted to screw into the fill port (see col. 3 lines 65-67).
9. As to claim 5, Field substantially discloses an apparatus wherein the spout has a width and a height, wherein the width is greater than the height (see figure 2).

10. **As to claims 7 and 25**, Field substantially discloses an apparatus wherein the fluorinated rubber composite comprises a polyamide reinforcing layer and a thermoplastic polymer layer **(see col. 3 lines 50-60)**.

11. **As to claims 16-20 and 22**, Field substantially discloses a method steps of at least partially filling the hydration system a fill port with a fluid and closing the system by engaging the cap to the fill port **(see col. 3 lines 10-20)**, wherein the hydration system comprises a bladder configured to hold a fluid **(see col. 3 lines 10-15)**, wherein the bladder comprises an outer layer **12 (see col. 3 lines 50-55)** and an inner layer **11 (see col. 3 lines 49-55)**; a spout **10** connected to the bladder and in communication with the insider of the bladder **(see col. 3 lines 60-65)**, wherein the spout comprises an output port and an fill port for filling the bladder with fluid **(see col. 3 lines 10-25)**; a cap adapted to engage and close the fill port **(see col. 3 lines 65-67)**; a tube having a first end connected to the output port of the spout and having a second end connected to a fluid delivery fitting **(see col. 3 lines 65-67)** but does not disclose an outer layer made of fluorinated rubber and an inner layer made of a material other than a rubber. Ohodaira teaches an apparatus that does provide an outer layer **3** made of fluorinated rubber **(see col. 4 lines 15-25)** and an inner layer **1** made of a material other than a rubber **(see col. 4 lines 10-20)**. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Field's invention by providing an outer layer made of fluorinated rubber and an inner layer made of a material other than a rubber as taught by Ohodaira so that the fluid contained in the bladder is not contaminated.

The method steps would have been obvious because they would have resulted from the use of the device of Field/Ohodaira.

12. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Field (US 4,636,412) in view of Ohodaira et al. (US 4,482,585) as applied to claim 1 above, and further in view of Kong (US 6,253,936).

13. **As to claim 6**, Field/Ohodaira substantially discloses the claimed invention; see rejection of claim 1 above, but does not disclose a tube that is made of flexible plastic. Kong discloses an apparatus that does provide a tube 96 that is made of flexible plastic (**see col. 8 lines 30-35**). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Field/Ohodaira's invention by providing a tube that is made of flexible plastic as taught by Kong so that the user has more mobility while drinking the fluid.

14. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Field (US 4,636,412) in view of Ohodaira et al. (US 4,482,585) as applied to claim 16 above, and further in view of Kong (US 6,253,936).

15. **As to claim 21**, Field/Ohodaira substantially discloses the claimed invention; see rejection of claim 1 above, but does not disclose a tube that is made of flexible plastic. Kong discloses an apparatus that does provide a tube 96 that is made of flexible plastic (**see col. 8 lines 30-35**). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Field/Ohodaira's invention by providing a tube that is made of flexible plastic as taught by Kong so that the user has more mobility while drinking the fluid.

The method steps would have been obvious because they would have resulted from the use of the device of Field/Ohodaira.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIHIR PATEL whose telephone number is (571)272-4803. The examiner can normally be reached on 7:30 to 4:30 every other Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nihir Patel/
Examiner, Art Unit 3772

/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772